

MINUTES
OF THE
ENVIRONMENTAL PROTECTION COMMISSION
MEETING
MARCH 15, 2011

INGRAM OFFICE BUILDING
7900 HICKMAN ROAD
WINDSOR HEIGHTS, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Environmental Protection Commission was called to order by Vice-Chairperson Marty Stimson at 10:10 a.m. on March 15, 2011 in the Ingram Office Building, Windsor Heights, Iowa.

COMMISSIONERS PRESENT

Gene Ver Steeg
Charlotte Hubbell, Chair – by phone
David Petty
Susan Heathcote
Paul Johnson
Marty Stimson, Vice-Chair
John Glenn
Lorna Puntillo, Secretary
Dee Bruemmer

ADOPTION OF AGENDA

Motion was made by David Petty to approve the agenda as presented. Seconded by John Glenn. Motion carried unanimously.

APPROVED AS PRESENTED

APPROVAL OF MINUTES

Motion was made by Susan Heathcote to approve the February minutes as presented. Seconded by Dee Bruemmer. Motion carried unanimously.

APPROVED AS PRESENTED

DIRECTORS REMARKS

Director Lande addressed Executive Order 71, which is a Governor's pronouncement that requires the department to prepare a jobs impact statement for all forth coming proposed rules.

HF 500 is still active in the House – This bill would transfer the rule-making authority of the Environmental Protection Commission and Natural Resource Commission to the Department.

Charlotte Hubbell asked for an update on the Clean Water program, specifically the 319 program and the proposal to transfer to the Department of Agriculture and Land Stewardship.

Director Lande said that we are working with Secretary Northey regarding the transfer logistics. However, no final decision has been reached. It's up to the Governor to determine who will administrator this program.

Lorna Puntillo asked how the Commission could help assist the Department in any of the proposed bills, by stating their support or opposition.

INFORMATIONAL ONLY

SOLID WASTE ENVIRONMENTAL MANAGEMENT SYSTEM PROGRAM'S GRANT AWARD CRITERIA

Brian Tormey, Chief of the Land Quality Bureau presented the following item.

Recommendation:

The Department requests Commission approval of the criteria for determining grant awards to solid waste planning areas that have been accepted into the Environmental Management System (EMS) Program. The authority for Commission approval for this criteria is provided in Code of Iowa Subsection 455J.7(3). This provision states that the Solid Waste Alternatives Program Advisory Council, in making recommendations as to the allocation of moneys appropriated to the EMS Program, shall adopt and use a set of reasonable criteria that shall be approved by the commission.

Funding Source:

The funds for the EMS grants are authorized in Code of Iowa Subparagraph 455E.11(2)"a"(1). The source of the funding is that portion of the remitted solid waste tonnage fees deposited into the Solid Waste Alternatives Program (SWAP) account and is earmarked for use by the EMS program.

Background:

In 2008, the Iowa Legislature passed House File (HF) 2570 which established a Solid Waste Environmental Management Systems (EMS) program for solid waste planning areas across Iowa. The legislation identified six specific areas that solid waste agencies participating in the program must be able to document continuous improvement in terms of meeting specific goals and objectives: These areas are: yard waste management; hazardous household waste management; water quality improvement; greenhouse gas reduction; recycling; and environmental education. The legislation also appropriated funding to assist in developing the program and providing ongoing support to the program participants. A nine member Solid Waste Alternatives Program Advisory Council appointed by the Director was created to provide program oversight and recommendations to the Commission regarding program participants and funding allocations. In 2009 six solid waste planning areas were selected as participants in a pilot project. The six pilot project participants selected in 2009 have now completed the first cycle of their plans and are moving forward with their second phases (Tier II participants).

Consistent with the legislation, it is anticipated that additional planning areas will be recommended by September 2011 to participate in the program (Tier 1 participants).

Purpose:

At its December 15, 2010 meeting the Solid Waste Advisory Council unanimously recommended that the attached criteria be approved. The areas addressed in the criteria include:

- Types of grants that are available and their cost share requirements.
- Details on how grant applications will be scored.
- A list of items not eligible for funding

Criteria for Awarding Environmental Management System (EMS) Grants

Approved by Council on 12/15/10

LEGISLATIVE CHARGE: 455J.7(3) ALLOCATION OF FUNDS

a. The council shall recommend to the commission a reasonable allocation of the moneys provided in section 455E.11, subsection 2, paragraph "a", subparagraph (1), subparagraph subdivision (c), to eligible systems. In making its recommendation as to the allocation of moneys, the council shall adopt and use a set of reasonable criteria. The criteria shall conform to the goals and purposes of this chapter as described in section 455J.1 and shall be approved by the commission.

(1) Types of Grants and Cost Share Requirements

- 1) In all cases grant awards must be directly tied to a project or projects specified in a participant's (EMS).
- 2) For each Tier 1 participant, a \$20,000 Quick Start Grant would be available once their initial EMS application is approved. The Quick Start Grant application is included as part of the initial EMS application packet that is due to be submitted August 1st. Although no cost share is required a cost share component in a project's budget will be considered in the review process. The council may recommend funding at a lesser amount than being requested or no award.
- 3) For Tier 1 participants, a competitive grant round is available during the first year of participation. The due date for the applications is March 1st. Within budgetary constraints the council will set aside funds equivalent to \$50,000 per Tier 1 participant. There is a 50% match requirement with a minimum of half of the match being in the form of cash. The council may recommend funding at a lesser amount than being requested or no award.
- 4) For Tier 2 participants, there is one competitive round each year with applications due by March 1st. The council will set a specific budget for each round. There is a 50% match requirement with a minimum of half of the match being in the form of cash. The council may recommend funding at a lesser amount than being requested or no award.
- 5) For both the Tier 1 round and the Tier 2 round participants may submit joint proposals.
- 6) While Tier 1 and Tier 2 application submittals are due at the same time, they will not be competing. Tier 1 application reviews will be done first. Monies budgeted for Tier 1 participants that are not used will be incorporated into the Tier 2 funding pool for that round.

(2) Application Scoring (Scoring not applicable to Quick Start grants)

1. Project Description – succinct description of the project including but not limited to the following: what it is; where will it be implemented; who is responsible for its implementation; is it a new initiative, or is it enhancing or improving an existing program or activity; and, a description of the goal and objectives of the project. (15 points)
2. EMS Implementation – describe specifically how the project is consistent with the entity's Solid Waste EMS and how it will assist in implementation or, if related to an existing project, how it supports the continuous improvement concept. (20 points)

3. Impact – what are the specific environmental results related to the project and how will these be measured. If not funded, what is the impact on the implementation of the entity’s SW EMS. (10 points)
4. Budget – provide a detailed budget for the project. (20 points)
5. Matching contributions – at least 50% of the total cost of the project must be in the form of a match with a minimum of half of the match being in the form of cash. The higher the total matching contributions and cash match the more points will be awarded to the applicant. (15 points)
6. Milestones – provide specific timelines for development and implementation of the project including planned start and finish dates. (5 points)
7. Sustainability – how will the project be financially supported after the grant funds are exhausted and how will the project be monitored for continuous improvement results. (15 points)
8. Joint submittals – a bonus of 5-10 points awarded for submittals from more than one planning area and/or other partnering entities. (includes all types of potential partners inside and outside of the planning area)
9. Grant Request History - additional points/consideration given to participants with less frequent award history.

(3) Ineligible costs: Financial assistance shall not be provided or used for costs including, but not limited to, the following:

1. Taxes.
2. Vehicle registration.
3. Legal costs.
4. Contingency funds.
5. Proposal preparation.
6. Contractual project administration.
7. Land acquisition.
8. Office furniture, office computers, fax machines and other office furnishings and equipment.
9. Costs for which payment has been or will be received under another federal, state or private financial assistance program.
10. Costs incurred before a written agreement between the applicant and the department has been executed.

(4) Monies Obligated through Grant Contracts

For budgetary purposes, monies obligated through grant contracts awarded during a fiscal year shall be applied to that fiscal year’s budget. This means that monies do not have to be expended by the end of the fiscal year in which the award was made and expenses incurred in a subsequent year shall be accounted against the previous year’s budget.

Moved was made by Dee Bruemmer to approve the criteria as presented. Seconded by Gene Ver Steeg. Motion carried unanimously.

APPROVED AS PRESENTED

CONTRACT - MIDATLANTIC SOLID WASTE CONSULTANTS, LLC – 2011 IOWA STATEWIDE WASTE CHARACTERIZATION STUDY**Recommendation:**

The Department requests Commission approval of a contract in the amount of \$169,900 with MidAtlantic Solid Waste Consultants, LLC for development and implementation of the 2011 Iowa Statewide Waste Characterization Study.

Funding Source:

This project will be funded by solid waste tonnage fees remitted to the Solid Waste Alternatives Program account within Groundwater Protection Fund.

Background:

Solid waste characterization data is critical for state and local solid waste officials to understand the effectiveness of current solid waste management programs. Understanding a waste stream's composition and its source (residential, industrial, commercial, institutional) is equally important in developing efficient, cost-effective and environmentally sound waste management programs for the purpose of minimizing the reliance on landfills.

Since the time of Iowa's last waste characterization study (2005) many new solid waste management programs including waste reduction, recycling, and composting have been implemented along with manufacturing, legislative, economic and demographic changes all affecting the waste characterization of Iowa. Study data will assist in identifying efforts to meet state and local waste reduction and recycling goals, improve program efficiencies, strengthen economic development efforts and improve Iowa's overall quality of life.

Nine (9) solid waste landfills volunteered to host waste sorts. Many of the host facilities receive considerable solid waste from transfer stations. At these smaller facilities, sorting activities will also be conducted as a means of obtaining waste composition data from residential and ICI (industrial, commercial and institutional) generators separately before being delivered to the landfill as mixed waste.

Purpose:

The purpose of this contract is to have a clear understanding of the waste stream's quantity and composition in order to develop efficient, cost-effective, and environmentally sound waste reduction and waste management programs at both the state and local level. These efforts are the basis for a reduction in greenhouse gases, energy, water and natural resource conservation and economic development.

A waste characterization study:

- provides accurate baseline data needed for solid waste planning and reduction efforts at all levels of government;
- allows planning areas to develop or expand existing waste reduction and recycling programs by targeting materials based upon the amount, difficulty of handling, toxicity, and/or homogeneity of types of waste;
- facilitates measuring the effectiveness of current waste management programs; and

- Assists private and municipal recyclers to plan material flows, capacities, revenue, and operating expenses.

It is important to note that the size and composition of waste streams can and do vary across the state. Consequently, waste management programs must be tailored to meet the unique conditions and needs of each planning area. A waste sort study allows the solid waste planning area to understand these conditions and to plan programs consistent with the solid waste management policies of the state.

Consulting Firm Selection Process:

MidAtlantic Solid Waste Consultants, LLC was chosen through a competitive solicitation of proposals. Three (3) proposals were received in response to the Department issued request for proposals. Proposals were reviewed by a four person committee. The selected vendor ranked first in their technical proposal and provided the lowest cost bid.

Scope of Work:

An outline of the **scope of work** is attached. In summary the selected vendor shall:

- Conduct a pre-sort workshop for waste sort host facilities and the Department;
- Obtain historical transactional data from host facilities to assist in developing waste sort methodology;
- Analyze previous Iowa waste characterization study data;
- Determine which loads will be sampled at host facilities (direct haul) and transfer stations prior to delivery to the host facility for landfilling;
- Provide field supervision and staff to conduct the 5-day waste sorts;
- Analyze and report waste sort data from all host facilities;
- Provide recommendations on any local, regional and state opportunities for diverting specific materials from the waste stream by generator type;
- Provide a comprehensive solid waste characterization final report; and
- Deliver a presentation of the study results at the fall 2011 Iowa Recycling Association/Iowa Society of Solid Waste Operations conference.

Based on technical and cost evaluations of submitted proposals, we recommend the contract for \$169,900 be awarded to MidAtlantic Solid Waste Consultants, LLC.

Paul Johnson said that we really need an educational component on how to reduce waste and increase recycling. Possibly a documentation on the waste in Iowa.

Brian Tormey said that the consultant will be presenting this information at the annual recycling conference this fall in Dubuque.

Paul Johnson suggested that we invite the Universities to attend.

Lorna Puntillo asked if there are reporting measures in place.

Brian Tormey said that comprehensive reports are submitted quarterly on the tonnage of waste. This study will show us what types of waste we are dealing with in our landfills, which in turn

will determine what types of programs could be developed. The consultant also plans to identify what is coming to transfer stations.

Moved by David Petty to approve the contract as presented. Seconded by Paul Johnson. Motion carried unanimously.

APPROVED AS PRESENTED

SOLID WASTE ALTERNATIVE PROGRAM – CONTRACT RECOMMENDATIONS

Brian Tormey, Bureau Chief of Land Quality presented the following item.

The Department received 9 proposals, requesting \$330,129 in financial assistance, for consideration during the January 2011 round of funding. Six (6) projects were selected for funding or additional consideration. If approved they will receive \$261,389 in a combination of forgivable loans and zero-interest loans.

The review committee consisted of five persons representing the Land Quality Bureau (2), Iowa Society of Solid Waste Operations (1), Iowa Recycling Association (1), and the Iowa Waste Exchange (1).

The table below summarizes recommendations by applicant type, project type and by type of award.

Recommended By Applicant Type	# Awards	Award Amount	Forgivable Loan Portion
Local Government	3	\$92,404	\$59,904
Private For Profit	0	\$0	\$0
Private Not For Profit	3	\$168,985	\$43,985
Recommended By Project Type	# Awards	Award Amount	Forgivable Loan Portion
Best Practices	5	\$116,389	\$83,889
Market Development	1	\$145,000	\$20,000
Education	0	\$0	\$0
Type of Award	# Awards`	Award Amount	Forgivable Loan Portion
Forgivable loan only	4	\$63,889	\$63,889
Forgivable and 0% loan only	2	\$197,500	\$40,000

At this time, the Department is requesting Commission approval to enter into contracts with selected applicants whose awards will be in excess of \$25,000 subject to satisfactory review of

additional requested information, review of business plans, negotiation of budget, match, deliverables, and other requested information.

The Department received 9 proposals, requesting \$330,129 in financial assistance, for consideration during the January 2011 round of funding. Six (6) projects were selected for funding or additional consideration. If approved they will receive \$261,389 in a combination of forgivable and zero-interest loans.

The following provides a description of each project, the project type, and the amount and type of funding assistance. The descriptions are organized as projects above \$25,000, those \$25,000 and below, and proposals received but not selected.

PROPOSAL RECOMMENDATIONS: ABOVE \$25,000

BEST PRACTICES PROJECT:

Audubon County Solid Waste Management Commission 1881 215th Street Audubon, Iowa 50025	Forgivable Loan: Zero Interest Loan: 3% Interest Loan: Total Award Amount:	\$20,000 \$32,500 \$ 0 \$52,500
	Cash Match: In-Kind Match: Local Match:	\$17,500 <u>\$63,125</u> \$80,625
	Total Project Cost:	\$133,125
Project Title:		
Audubon County Recycling Improvements		
Contact:	Janet Hansen	Phone: 712-563-3589
Project Type:	Best Practices	
Applicant:	Local Government	
Description:	The Audubon County Solid Waste Management Commission applied for funds to assist with the construction of a new building for indoor storage of baled recyclables. The new storage facility will enable ACSWMC to market higher quality recyclables, market full truck loads and allow them to expand the types of recyclable materials being collected, baled and marketed.	
Target Area:	Audubon County	

MARKET DEVELOPMENT PROJECT:

Recycletronics – Disabled Veterans at Work 1219 5th Street Sioux City, Iowa 51101	Forgivable Loan: Zero Interest Loan: 3% Interest Loan: Total Award Amount:	\$ 20,000 \$125,000 \$ 0 \$145,000
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Cash Match:	\$ 52,000
In-Kind Match:	<u>\$187,300</u>
Local Match:	<u>\$239,300</u>

Total Project Cost:	\$384,300
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Project Title: **Electronics Recycling Expansion**

Contact: William Graves Phone: 712-253-3972

Project Type: Market Development

Applicant: Private Not For Profit

Description: Recycletronics – Disabled Veterans at Work applied for funds to increase their capacity to receive and process electronics waste. Project goals include collecting and processing an additional 1,000 tons of recyclable electronics waste – primarily CRTs and the leaded and clean glass that comes with them. The expansion will provide employment for an additional six disabled veterans. Equipment to be purchased and put into service includes an auto cutter, granulator/washer, and used fork lift and Bobcat.

Target Area: Northwest Iowa and surrounding states

PROPOSAL RECOMMENDATIONS: \$25,000 AND BELOW

BEST PRACTICES PROJECTS:

Christian Relief of Supplies & Services
1610 North Main Street
Osceola, Iowa 50213

Forgivable Loan:	\$ 9,150
Zero Interest Loan:	\$ 0
3% Interest Loan:	<u>\$ 0</u>
Total Award Amount:	\$ 9,150

Cash Match:	\$ 3,050
In-Kind Match:	<u>\$23,525</u>
Local Match:	<u>\$26,575</u>

Total Project Cost:	\$35,725
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Project Title: **Portable Loading Ramp**

Contact: Mike Sitzman Phone: 641-414-1675

Project Type: Best Practices

Applicant: Private Not For Profit

Description: Christian Relief of Supplies and Services (CrossMinistries) applied for SWAP funds to purchase and put into service an adjustable, portable loading ramp to improve the efficiency of loading and unloading materials at their reuse/recycling facility (i.e. medical equipment, textiles) and thrift store. The adjustable ramp will allow CrossMinistries to load and unload trucks of varying heights and the portability will allow them to easily move the ramp to their various storage facilities. The ramp will eliminate the need to double handle materials and to load and unload trucks by hand. CrossMinistries currently diverts 20-30 tons of materials from the landfill each month, and implementation of the new ramp is expected to increase their diversion.

60-mile radius of Osceola

Target Area:

Iowa Department of Transportation
800 Lincoln Way
Ames, Iowa 50010

Forgivable Loan: \$19,904
Zero Interest Loan: \$0
3% Interest Loan: \$0
Total Award Amount: \$19,904

Cash Match: \$15,568
In-Kind Match: \$ 9,415
Local Match: \$24,983

Total Project Cost: \$44,887

Project Title: **Iowa Recycles on the Road**
Contact: Steven McMenamin Phone: 515-239-1680
Project Type: Best Practices
Applicant: Local Government
Description: The IDOT applied for SWAP funds to assist in the development and implementation of a pilot beverage container recycling project to include: 1) development of a recycling infrastructure for eight Iowa interstate rest sites; 2) increasing the amount of waste collected for recycling by at least 35% during the 12-month pilot project; 3) promoting a culture of recycling with the traveling public by making it convenient, available, and cost-effective to recycle at rest areas. Based on waste sort data from surrounding states beverage containers is the most disposed of recyclable at rest areas. IDOT will also recycle newsprint from vending machines at the pilot rest areas.

Target Area: Eight rest area stops on I-80 and I-35 in Polk and Story Counties

Gateway Redevelopment Group
519 West 8th Street
Davenport, Iowa 52803

Forgivable Loan: \$14,835
Zero Interest Loan: \$ 0
3% Interest Loan: \$ 0
Total Award Amount: \$14,835

Cash Match: \$ 4,945
In-Kind Match: \$20,000
Local Match: \$24,945

Total Project Cost: \$39,780

Project Title: **Architectural Rescue Shop**
Contact: Jack Haberman Phone: 563-326-3290
Project Type: Best Practices
Applicant: Private Not For Profit
Description: Gateway Redevelopment Group (GRG) salvages usable, vintage building materials from structures that are either undergoing renovation or are slated for demolition. The current volume of salvaged items exceeds the space available for proper storage of the items, and GRG has applied for funds to assist with the building of a 20' by 36' structure to provide on-site storage for all salvaged items. The new storage facility will provide better public access for consumers looking to purchase salvaged materials, permit improved organization of overall salvage operations, and allow more efficient usage of volunteers. The project is expected to double GRG's landfill diversion from 40 tons per year to 80.

Eastern Iowa

Target Area:

The University of Iowa
2 Gilmore Hall
Iowa City, Iowa 52242

Forgivable Loan: \$20,000
Zero Interest Loan: \$ 0
3% Interest Loan: \$ 0
Total Award Amount: \$20,000

Cash Match: \$38,190
In-Kind Match: \$ 7,360
Local Match: \$45,550
Total Project Cost: \$65,550

Project Title: **Food Waste Composting**

Contacts: Jordan Cohen Phone: 319-335-2123
 Liz Christiansen Phone: 319-335-5516

Project Type: Best Practices
Applicant: Local Government

Description: The University of Iowa applied for funds to assist with the purchase of a food waste pulper. The project will allow the University to expand its existing pre-consumer food waste collection to include post-consumer food waste at its major west campus dining hall. Currently all post-consumer food waste is sent through a garbage disposal for waste water treatment. With the project all food waste will be composted. Food waste recovery will increase from approximately 1,000 pounds (0.5 tons of pre-consumer food waste) per week to approximately 4.8 tons per week (adding 4.3 tons of post-consumer food waste per week). The project will also reduce water consumption by approximately 1.5 million gallons.

University of Iowa's primary west campus dining hall

Target Area:**PROPOSALS RECEIVED, NOT RECOMMENDED****BEST PRACTICES PROJECTS:**

Northwest Iowa Area Solid Waste Agency
4540 – 360th Street
Sheldon, Iowa 51201

Total Amount Requested: \$8,000

Project Title:	Waste Diversion and Recycling Education Campaign		
Contact:	Larry Oldenkamp	Phone:	712-324-4026
Project Type:	Best Practices		
Applicant:	Local Government		
Description:	The NIASWA applied for funds to develop a video that will allow the Agency to educate residents about the range of Integrated Solid Waste Management activities taking place within 4-county solid waste planning area.		

Clinton County Area Solid Waste Agency			
4292 – 220 th Street			
Clinton, Iowa 52733			
Total Amount Requested:			\$10,000
Project Title:	Recycling and Waste Reduction Education Video		
Contact:	Brad Seward	Phone:	563-242-5320
Project Type:	Best Practices		
Applicant:	Local Government		
Description:	CCASWA applied for funds to develop a video that will allow the Agency to educate residents about the range of Integrated Solid Waste Management activities taking place within Clinton County.		

Benton County Landfill			
7904 20 th Avenue			
Blairstown, Iowa 52209			
Total Amount Requested:			\$20,000
Project Title:	Benton County Drop-off Recycling Project		
Contact:	Myron Parizek	Phone:	319-472-2211
Project Type:	Best Practices		
Applicant:	Local Government		
Description:	The Benton County Landfill applied for funds to maintain and improve the drop-off recycling program for rural residents and small businesses in Benton County.		

Paul Johnson asked why the three proposals were not selected.

Brian Tormey said that he is not on the review team but will check into why these contracts were not approved

Motion was made by Paul Johnson to approve the SWAP recommendations as presented. Seconded by Lorna Puntillo. Motion carried unanimously.

APPROVED AS PRESENTED

PUBLIC PARTICIPATION

Darren Muehring, with the City of Dubuque thanked Patti Cale-Finnegan for her assistance on the Upper Bee Branch Creek project. We anticipate that this will be a 2-3 year project.

Mr. Muehring showed a 5 minute video on the history of the creek and proposed restoration plans.

Paul Johnson asked Mr. Muehring if they were looking at the upstream effects.

Mr. Muehring said yes, we are looking at the entire watershed. We are looking at \$30 million to complete this project.

Lorna Puntillo asked if there is a return on investment statement. Will there be a cost analysis of the flood damage and what this will save just having this stream in place? Is there a place on the state's website that highlights this great project as a feature program for other cities to use?

They also anticipate residents in this area will see a benefit as their property values increase. It's also easier for people to buy a house that they know won't flood every 3 years.

Lorna Puntillo said that a lot of money can be saved when we do great things for the environment.

-----End of Public Participation-----

CONTRACT – ASSOCIATION OF BOARDS OF CERTIFICATION (ABC) FOR ABC ONLINE STANDARDIZED EXAM SERVICES

Laurie Sharp presented the following item.

Recommendations:

Commission approval is requested for a three (3) year service contract with Association of Boards of Certification (ABC) of Ankeny, IA. The contract will begin on March 15, 2011 and terminate on December 31, 2013. The total amount of this contract shall not exceed \$117,000. DNR shall have the option to renew this contract long as this contract and any extensions do not exceed a six-year period.

Funding Source:

This contract will be funded through dedicated funds, 7153, collected through Operator Certification fees;

Statutory Authority: 455B.221

Background:

The certification of drinking water treatment and water distribution operators as mandated in the EPA Baseline Standards established in response to the 1996 Re-authorization of the Safe Drinking Water Act mandates the certification and continued training of operators at all Community Water Supplies and Non Transient Non Community systems who meet the necessary education, experience, and examination requirements.

The Federal Baseline Standards call for all required exams to be “validated” on a routine basis. This validation process is a costly and time-consuming enterprise that calls for psychometrically sound procedures for job analyses, item development, item validation, exam development, statistical analysis and program evaluation. These processes are costly and time-consuming (@\$200,000, minimum, per discipline.) Iowa does not have the staff or budget to facilitate such an undertaking and, adding even more expense, the validation process is ongoing; proper revalidation must occur every few years. If we were to administer the validation process ourselves, we would have to raise operator fees substantially.

Purpose:

The parties propose to enter into this Contract for the purpose of retaining the Contractor to provide access to, deliver and maintain the web-based “*Association of Boards of Certification Standardized Exams*” for Water Treatment, Wastewater Treatment and Water Distribution, Grades 1 through 4, for use by the State of Iowa’s Water and Wastewater Operator Certification Program.

Contractor Selection Process:

The Association of Boards of Certification (ABC) was chosen using the competitive selection process. ABC was chosen for this project because of their nationally recognized standardized exams and their ability to dynamically deliver and maintain web-based accessibility to these exams at a low cost.

This contract’s \$39 per exam price includes on-going, exam bank question maintenance; the provision of on-going, dynamic question and examinee statistics/diagnostic information; and psychometrically sound revalidation of questions every other year by a nationally recognized group of “Industry Subject Matter Experts,” under the strict supervision and guidance of an accredited group of psychometricians.

Other benefits of ABC Standardized exams are as follows: national recognition and use aids state certification program regulators in evaluating and processing exchange of an operator’s certification from state to state (reciprocity) and ABC’s online exam preparation material aids Iowa operators in preparation and Iowa trainers in curriculum development.

STATEMENT OF WORK

Contractor, ABC, Obligation:	Task Milestone Date
Task 1: Provide dynamic, web-based access to current “Association of Board’s of Certification Standardized Exams” for Water Treatment , Grades 1 through 4 Water Distribution, Grades 1 through 4 Wastewater Treatment, Grades 1 through 4	No later than thirty (30) business days of execution of Testing Service contract.

Description: ABC staff will build the web portal for Iowa DNR to access the required ABC standardized exams. The exams will be designed to scramble question options.	
Task 2: Provide Iowa staff with web-based exam scheduling capabilities for the exams outlined in Task 1.	No later than one (1) day from execution of this Testing Service contract.
Task 3: Ensure security and reliability of the exams outlined in Task 1. Description: Use of password-protections; ABC will generate and provide via email to Iowa DNR the necessary passwords to access the web-based exams prior to each exam administration.	No later than ten (10) business days of receipt of electronic file of scheduled candidates from Iowa DNR.
Task 4: Maintain sufficient item statistics on exams outlined in Task 1 to provide Iowa staff with immediate, upon completion of exam, web-based access to an individual examinee's score and exam diagnostic information.	Upon completion of each candidate exam.

Moved by John Glenn to approve the contract as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

PROPOSED RULES – DRINKING WATER AND LABORATORY CERTIFICATION PROGRAMS – CHAPTERS 40,41, 42, 43, AND 83

Diane Moles in the Water Quality Bureau presented the following item.

The Commission will be asked to review a draft Notice of Intended Action that would initiate rulemaking to amend the following chapters:

- Chapter 40, Scope of Division-Definitions-Forms-Rules of Practice
- Chapter 41, Water Supplies
- Chapter 42, Public Notification, Public Education, Consumer Confidence Reports, Reporting, and Record Maintenance
- Chapter 43, Water Supplies – Design and Operation, and,
- Chapter 83, Laboratory Certification

Between January 2004 and March 2007, the U.S. Environmental Protection Agency promulgated two new significant federal rules pertaining to drinking water: Stage 2 disinfectants and disinfection byproducts rule (Stage 2 DBPR) and Long-term 2 enhanced surface water treatment rule (LT2 ESWTR). In addition, other changes were made during that same timeframe to existing federal drinking water rules, primarily in analytical methods. States are expected to incorporate these federal rule provisions into state program rules in order to maintain primacy in the drinking water program. The proposed rule amendments, if adopted, will accomplish that end.

In addition to the adoption of the two federal rules, the other proposed changes are summarized below.

- In the scope of the division, reference Chapter 38 for test well and monitoring well rules and remove Chapter 47, which has already been rescinded. (Ch. 40 and 83)
- Correct the name of the University Hygienic Laboratory to the State Hygienic Laboratory (Ch. 40 and 83).
- **Require systems collecting at least 6 routine total coliform samples to do so on separate days to meet the minimum federal rule (Ch. 41).**
- **Adopt new analytical methods that are approved for drinking water (Ch. 41).**
- **Rescind parts of the existing Stage 1 disinfectants/disinfection byproducts rule that are no longer applicable with the adoption of the Stage 2 rule (Ch. 41, 42, and 43)**
- **Update the uranium detection limit (Ch. 41)**
- **Include the requirement of the department to maintain a list of certified operators (Ch. 43)**
- **Update the water supply construction standards to the 2007 edition of Ten States Standards and 2010 American Water Works Standards (Ch. 43)**
- **Clarify the duration of a water supply construction permit (Ch. 43)**
- **Require at least 0.5 log inactivation of *Giardia lamblia* cysts by disinfection treatment of surface or influenced groundwater sources (multiple barrier approach along with physical treatment processes) and clarify existing CT ratio requirements (Ch. 43)**
- **Adopt the EPA's optimization goals for turbidity (Ch. 43)**
- **Correct the reference that the certification of SHL must be acceptable to EPA (Ch. 83)**
- Correction of typographic and rule citation errors (all chapters)

These chapters and their amendments were reviewed by the water supply technical advisory group at one meeting. The group is comprised of individuals representing a wide variety of water supply stakeholders, including professional drinking water organizations, public water supplies, certified operators, certified environmental laboratories, environmental interests, consulting engineers, and other governmental agencies.

It was the consensus of the advisory group that one public hearing in Des Moines is recommended to the EPC for this rulemaking.

INFORMATION ONLY

AIR QUALITY TITLE V FEE BUDGET REVIEW

Wendy Walker, Environmental Specialist Senior in the Air Quality Bureau presented the following item.

The Department is providing the state fiscal year (SFY) 2012 Title V budget to the Commission for information. The Air Quality Bureau's (Bureau) budget is summarized in the attachment for information. Expenditures paid from the Title V fee fund are included in the budget. A summary of anticipated revenues and expenditure for all air quality areas are listed below.

Budget Development

The Bureau begins the budget cycle earlier than other parts of the Department to allow for stakeholder involvement. Typically the Bureau estimates the upcoming budget each December and meets with a representative group of the core Title V fee payers each January to discuss the budget. An estimated or draft budget to cover the reasonable costs of administering the Title V program is presented at the March Commission meeting.

The Title V fee is calculated by dividing the estimated budget by the chargeable emissions as reported by facilities each March 31. The Bureau provides that information to the Commission no later than the May meeting. The Commission will then be asked to set the fee based on the program's budget at the meeting. The Title V fees are due each July 1 and fund the program for the entire year. For example, the Title V fees to be paid on July 1, 2011, are based on 2010 emissions and will fund the program for SFY 2012, or July 1, 2011, to June 30, 2012.

The Bureau recently met with members of the public, industry, and environmental groups to obtain preliminary input on the Title V fee cap. Meetings were conducted on November 12, November 19, and December 2, 2010. Between now and the May Commission meeting, the Bureau will refine the costs for personnel, the Department's indirect rate, professional contacts, accrued interest, the amount of savings from unspent vacancies and other unspent funds, any federal program implementation requirements, and the reported chargeable emissions.

Alternate Funding Rulemaking

The Title V fee set in May 2010 of \$56 per ton is also the maximum fee allowed under administrative rules. In a separate action the Bureau is conducting an administrative rulemaking to raise the maximum fee, also known as the Title V fee cap, and that considers alternate funding mechanisms for the Title V program. The rulemaking, as published in the Iowa Administrative Bulletin, may be viewed at <http://www.legis.state.ia.us/aspx/ACODOCS/DOCS/9366B.rtf>. An information meeting on this rulemaking is scheduled for February 22, 2011, and a public hearing will be held on March 11, 2011. All comments must be received by March 11, 2011. The Bureau anticipates returning to the Commission at the April meeting to finalize this rulemaking to assure the changes would become effective prior to the July 1 fee payment due date.

What is a Title V operating permit?

A Title V operating permit is required for those facilities with potential emissions that exceed the major stationary source thresholds. A major stationary source is a facility that has the potential to emit 100 tons per year (tpy) or more of any air pollutant; or the potential to emit 10 tpy or more of any individual hazardous air pollutant; or the potential to emit 25 tpy or more of any

combination of hazardous air pollutants. Currently Iowa has 278 major stationary sources, also referred to as Title V facilities. Examples of Title V facilities include electric utilities, grain processors, cement plants, and manufacturing operations.

The Title V fee is based on the first 4,000 tons of each regulated air pollutant emitted each year from each major stationary source in the state. Regulated pollutants include: particulate matter less than 10 micrometers in diameter (PM₁₀), sulfur dioxide (SO₂), nitrogen oxides (NO_x), volatile organic compounds (VOC), lead (Pb), and hazardous air pollutants (HAP). The fee is used to support the development and administration of activities associated with major sources subject to the Title V Operating Permit Program.

Summary

The current estimate for Title V tonnage anticipates a decline of 8,000 tons, or 5%, from 166,000 tons last year to 158,000 tons. Overall the Title V revenue is estimated to increase by \$378,000 from the prior year. The estimated carry forward amount is \$485,000. Estimated interest to be earned in SFY 2012 has been lowered to \$75,000. Absent implementation of an alternative funding mechanism, such as these included in the Title V fee rulemaking, the fee is projected to increase by \$9.00, or 16%, from \$56.00 per ton to \$65.00 per ton.

Details on where changes to the budget are being proposed are listed in the attached spreadsheet in the “Notes” column.

Total Title V Fund expenditures are proposed to increase by 7.9% or \$787,000 in the SFY 2012 budget. Personnel costs are anticipated to increase by \$305,000 due to labor agreements and estimated increases in the Department’s indirect rate. Professional contracts are still under negotiation at this time. Based on previous and current estimates, the costs are anticipated to increase by \$100,000. Monitoring equipment is proposed to increase by \$150,000 and laboratory expenses of \$221,000 are proposed to be restored. Electronic records expenses are proposed to increase by \$11,000 to reflect the actual costs. The Commission will be asked to set the fee in May based on actual emissions data and a final draft budget.

Carryover Funds - Title V funds are deposited into an account that carries funds over from one fiscal year to another. Any unspent funds reduce the annual increase of the Title V fee. The Bureau projects to carry forward approximately \$485,000 into SFY 2012. The unspent funds are primarily in savings from accrued personnel funds from vacant positions.

Program Changes – Last year the emissions received were 26,000 tons less than were estimated at the March 2010 meeting. The drastic decline was attributed to the economic recession. The Bureau was forced to make significant reductions to the program in order to not exceed the maximum Title V fee (Table 1). Of these reductions, only a portion of the ambient monitoring reductions have been restored.

Table 1: SFY 2011 Reductions Made to Remain at the Title V Fee Cap of \$56 per ton

Item	Reduction	Impacts to Services
Reduced DNR air quality staffing by 4 positions and downgraded an	\$551,000	Reduction of 2 staff, 2 vacancies held, 2 positions downgraded. Reduced work on

additional 2 positions		emissions inventory, eliminated records and asbestos staffing.
Reduced DNR ambient air quality funding	\$371,000	Removed funding to cover monitoring lab expenses. Delayed purchase of air monitors.
Reduced Iowa Emissions Assistance Program at UNI	\$282,000	Refocused to education and outreach; discontinued direct permit and emission inventory assistance.
TOTAL	\$1,204,000	

Unfunded Obligations

Sufficient funding for critical program elements is not provided for in the proposed budget and draft fee, including the following: additional staffing required for mandatory greenhouse gas permitting; resources and staffing needed to comply with new requirements of many federal air quality standards; staffing requirements if nonattainment areas are declared in the state; and restoration of a portion of the small business permit assistance program that was eliminated to help balance the SFY 2011 budget.

Overall Program Funding

Clean Air Act (CAA) section 105 money is awarded to the department through a Performance Partnership Grant (PPG) with the EPA. The PPG is the financial component of the Performance Partnership Agreement (PPA). The department negotiates the PPG on an annual cycle while the PPA is negotiated on a two-year cycle. The PPA contains the mutually agreed upon goals that the EPA and DNR will work together to achieve during the two year agreement period. For air quality, the tasks that must be accomplished to achieve the agreed upon goals are contained in the 105 work plan, which is an attachment to the PPA. As indicated in Table 2, CAA section 105 funds require state matching dollars whereas CAA section 103 funds do not. No Title V money is included in the PPG.

Table 2. Summary of Cost Centers and Funding Sources

Program Area	Expenditures (Cost Center)	Funding Source*
Air Title V includes		
Legal Services	1430	TV Fees
IT Support	3520	TV Fees
Title V Operating Permit Program	7230	TV Fees
Title V Field Program	7421	TV Fees
Air Quality Program includes:		
Air Quality central office base program	7220	CAA 105 & GF
PM 2.5 Monitoring network	7240	CAA 103
Greenhouse Gas Activities	7250	Env. First/TV Fees
Air Quality field office base program	7419	CAA 105 & GF
Ambient Air Monitoring	17HA	Env. First
Diesel Emission Reduction Grants	7260 & 7270	Federal Grant

- * TV Fees – Title V fees
 - CAA 105 – Clean Air Act section 105 grant with a state match required
 - CAA 103 – Clean Air Act section 103 grant with no state match required
 - Env. First – Funding under the state Environment First Fund
 - GF – Legislatively appropriated General Funds or other state funds
 - Federal Grants – Federal diesel emission reduction grants

Wayne Gieselman said there is a bill in the legislature that imposes a statutory fee cap of \$56.00 per ton. It allows us to charge the \$56.00 but then designates what parts of the Air Quality Bureau will be funded by that fee. Currently, 80% of the Air Quality budget is funded with this fee. If this bill were to pass in its current form, we would lose approximately \$5 million dollars.

Lorna Puntillo asked how many permits or facilities pay this fee. Wendy Rains said that there are 278 permits and 215 facilities that are paying 80% of the Air Quality budget. The remaining 20% is funded through state funding.

Jim McGraw explained the difference between PSD and Title V permits.

Lorna Puntillo asked the Department if they have considered minor source contributors as possible fee payers.

Jim McGraw presented the option of implementing a construction permit fee for major sources only that would cover the air quality services that major facilities use and need.

INFORMATION ONLY

CLEAN WATER AND DRINKING WATER SRF LOAN FUND – IUP

Patti Cale-Finnegan in the Water Quality Bureau presented the following item.

Commission approval is requested for fourth quarter updates to the Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Intended Use Plans (IUPs) for FY 2011 (July 1, 2010 – June 30, 2011). The Iowa SRF continues to grow and expand its role as one of the primary funding sources for water quality and protection of public health. Since 1989, the Iowa SRF has committed more than \$1.7 billion for water and wastewater infrastructure and nonpoint source pollution control.

The Iowa SRF is operated through a coordinated partnership between the Department of Natural Resources (DNR) and the Iowa Finance Authority (IFA). DNR administers the environmental and permitting aspects of the programs, with IFA providing financial assistance including loan approval and disbursements.

The CWSRF provides low-interest loans for wastewater infrastructure improvements, storm water quality, and nonpoint source water quality projects. The FY 2011 IUP fourth quarter update shows project requests totaling \$583 million, plus \$29.5 million for nonpoint source

projects. So far during FY 2011 \$149 million worth of new loans have been signed for wastewater and sewer projects, and \$9 million in nonpoint source assistance has been provided. It is anticipated that approximately \$234 million will be disbursed during the remainder of FY 2011.

The DWSRF provides assistance to public water supplies to protect public health and improve infrastructure. The FY 2011 IUP fourth quarter update shows funding requests totaling \$194 million. Loans totaling \$34 million have been signed so far in FY 2011. It is anticipated that approximately \$93 million will be disbursed during the remainder of FY 2011.

The Sources and Uses tables for both CWSRF and DWSRF show that funds are available or obtainable to provide anticipated disbursements. IFA issued bonds totaling \$292 million in December 2010. This bond issue included new funds for loan disbursements, state match funds, and refunding of previous issues at lower interest.

The latest federal capitalization grant included requirements to provide additional subsidization in the form of principal forgiveness to disadvantaged communities. Applicants were ranked first on their environmental score so that funding would go to the highest priority projects. Then disadvantaged community criteria were applied to identify the neediest communities. On the CWSRF list, principal forgiveness will be provided to those applicants with both high environmental scores and high scores on disadvantaged criteria. On the DWSRF list, there were fewer projects so that all communities with high scores on disadvantaged criteria can receive principal forgiveness.

The FY 2010 capitalization grant also requires funding be used for green projects as defined by the U.S. Environmental Protection Agency, including water and energy efficiency, green infrastructure, and environmentally innovative projects. A solicitation for green projects was issued on July 26, 2010, with an application deadline of December 1, 2010. Green project applications are listed on the fourth quarter FY 2011 IUP project priority lists. The CWSRF list includes projects to manage storm water for water quality and an energy efficiency project. The DWSRF list includes projects for water meter installation and replacement as well as energy efficiency.

A public meeting was held February 10, 2011 to receive comments on the proposed IUP updates. Representatives from the City of Dubuque attended to provide support for the Upper Bee Branch green project which involves daylighting a buried urban stream. The written comment period closed on February 17, 2011. A written comment was received from Rathbun Regional Water Association expressing thanks for listing their project for additional subsidization.

John Glenn abstained from voting due to a conflict of interest.

Motion was made by Susan Heathcote to approve the Clean Water and Drinking Water SRF IUP as presented. Seconded by David Petty. Motion carried unanimously.

APPROVED AS PRESENTED

LEAD NONATTAINMENT AREA BOUNDARY RECOMMENDATIONS – COUNCIL BLUFFS

Jim McGraw distributed the following handout.

Lead Nonattainment Area Boundary Preliminary Recommendations Council Bluffs, IA

Overview: The National Ambient Air Quality Standard (NAAQS) for Lead has been violated six times in the past year in Council Bluffs. Monitoring near Griffin Pipe Foundry has measured values above the health based standard. Griffin Pipe Foundry is the only source of Lead emissions in the area. U.S. EPA is seeking state input on the causes and area affected by these emissions, prior to their proposal of a nonattainment area. Air quality bureau staff has developed a technical support document with recommendations to circumscribe the nonattainment area to include approximately 3.4 square miles of the City of Council Bluffs that are likely impacted by high Lead emissions.

NAAQS Change: Lead (Pb) National Ambient Air Quality Standard was made more protective of public health by the U.S. EPA on October 15, 2008. The level of the Lead NAAQS was dropped from 1.5 µg/m³ to 0.15 µg/m³, on a rolling three month basis.

Human Health Impacts: There have been over 6000 health studies published since 1990 examining Lead exposure and its health impacts. EPA concluded from review of these studies that Lead can have adverse health effects at concentrations much lower than previously thought. Exposures to low levels of Lead have been linked to effects on IQ, learning, memory, and behavior, especially in children.

Area Designations Timeline: Following a revision to a NAAQS, Section 107(d) of the Clean Air Act requires areas be designated as attainment, nonattainment, or unclassifiable. An area that meets a NAAQS is classified as an attainment area. An area that does not meet the NAAQS, or an area that contributes to a nearby area not meeting the NAAQS, is classified as a nonattainment area. If sufficient data is not available to make a determination, the area is designated as unclassifiable.

States are required to submit designation recommendations to EPA within one year of a NAAQS revision. On September 10, 2009, the Governor submitted to EPA a recommendation that all areas in the state be classified as being attainment/unclassifiable relative to the Lead standard. EPA has not acted on Iowa's designation recommendations. At that time, no Lead monitors were in operation in the state.

Designations are normally made by EPA within two years of a NAAQS revision, although EPA may take an additional year if sufficient information is not available. When EPA revised the Lead NAAQS they also revised requirements for Lead monitoring, including provisions requiring an expansion of the Lead monitoring network. As a result of EPA's rules to expand the Lead monitoring network, EPA is exercising their option to extend the Lead designations process by one year to consider data from newly sited source oriented Lead monitors.

Monitoring Requirement: EPA required that states place ambient air quality monitors for Lead near all facilities emitting more than 1 ton per year of Lead if modeled impacts of the Lead emissions also exceeded 50% of the Lead NAAQS. Griffin Pipe in Council Bluffs was the only facility in IA that met both criteria for source oriented Lead monitoring. Operation of the Griffin Pipe Lead monitor started on November 3, 2009.

Lead Monitoring Results: The Griffin Pipe monitor has recorded six (6) violations of the Lead NAAQS

during the period November 2009 – December 2010. The highest of these violating 3-month rolling averages occurred over the period June – August 2010, at 0.26 µg/m³. A single three month-rolling average over the 0.15 µg/m³ level constitutes a violation of the Lead NAAQS, which triggers the requirement for EPA to establish a nonattainment area.

Ramifications of Lead Nonattainment: Existing Lead sources in the nonattainment area and new sources that want to locate into the nonattainment area will have to install the most stringent emissions controls for Lead that are technically feasible without regard to cost. Each new ton of Lead emissions in the nonattainment area will have to be offset by a reduction of at least 1 ton of Lead emissions elsewhere in the nonattainment area. The area will be designated as nonattainment for Lead until at least three years of monitoring data are collected that show no violations of the Lead NAAQS.

Nonattainment Area Boundary Determination: EPA has requested that IA provide proposed nonattainment area boundaries. States must consider eight factors in the development of boundary recommendations. The eight factors are:

- Emissions data • Level of control of emissions sources
- Air quality data • Population density and degree of urbanization
- Meteorology • Geography/topography
- Jurisdictional boundaries • Expected growth (including extent, pattern and rate of growth)

EPA also allows the use of results from an air quality simulation by dispersion modeling to support the nonattainment boundary determination. The nonattainment area boundaries were developed considering the footprint where the predicted Lead impacts violated the Lead NAAQS.

Source of the Monitored Lead Violations: The 8-factor analysis combined with the results of the air quality modeling analysis showed that the Lead emissions from the cupola furnace and the hot iron desulfurization and magnesium inoculation processes at the Griffin Pipe facility were causing the monitored Lead NAAQS violations. No other contributing sources were identified.

Reduction of Lead Emissions and Impacts from Griffin Pipe: Recent Prevention of Significant Deterioration (PSD) permitting activities at Griffin Pipe have resulted in facility modifications, control technology installations, and Lead emissions reductions that are anticipated to result in attainment of the Lead NAAQS. A wet scrubber on the cupola has been replaced with a baghouse. The PSD permits also required installation of a second baghouse for the hot iron desulfurization & magnesium inoculation processes. The addition of the baghouses resulted in changes to the arrangement and heights of stacks at Griffin Pipe. These modifications in combination will reduce ambient Lead air impacts. Additionally, the facility must utilize a scrap management plan to limit the amount of Lead content in processed scrap metal.

Public Meeting: A public meeting was held in Council Bluffs, IA, on February 16, 2011, to obtain public review and comment on the proposed boundaries. No specific alternative boundaries were received at the meeting and one written comment was received subsequent to the meeting. General comments on the narrowing of the boundaries included comments to reduce the eastern and western extent of the boundaries, as well as a reduction in the area covered in the southwestern portion of the boundary. No justification was provided to support the comments. No changes in the proposed boundary are recommended by staff at this time.

Next Steps: The State's recommendations for the Lead nonattainment area boundaries have to be submitted to EPA by mid-March to be considered in the development of EPA's initial designation proposal.

EPA considers both the state's recommendations and their own data analysis prior to proposing a designation. By June 2011, EPA will propose the nonattainment designation and boundaries of the affected area. The state will then have approximately 60 days to review and comment on EPA's proposal.

EPA will finalize the designation by October 15, 2011. EPA has the final authority in determining and designating the classification of areas.

Charlotte Hubbell asked if a referral to the Attorney General would be warranted.

Ed Tormey indicated that this item was brought to the Commission about a year ago and the Commission voted not to refer to the Attorney General.

INFORMATION ONLY

MONTHLY REPORTS

Wayne Gieselman, Division Administrator, Environmental Protection Division, presented the following items.

The following monthly reports have been posted on the DNR website under the appropriate meeting month: <http://www.iowadnr.com/epc/index.html>

1. Rulemaking Status Report
2. Variance Report
3. Hazardous Substance/Emergency Response Report
4. Manure Releases Report
5. Enforcement Status Report
6. Administrative Penalty Report
7. Attorney General Referrals Report
8. Contested Case Status Report
9. Waste Water By-passes Report

INFORMATION

GENERAL DISCUSSION

Wayne Gieselman gave updates on:

- Coal combustion residue rules – EPA has delayed any further action on this for at least another calendar year.

-We anticipate that the CAFO rules will be back at the May meeting. We've received many public comments that need to be compiled into the responsiveness summary.

- We also anticipate that there will be significant budgetary impacts to Geological Survey, Parks, Forestry and other areas of the Department. We are hoping that we will have a broad budget plan in place before the end of the month, however nothing will be concrete until after the legislature has adjourned and they have finalized their budget.

-The Commission will welcome three new commissioners at the May Meeting. Delores Mertz, Mary Boote and Brent Rastetter.

Brian Hutchins said that EPA is taking the lead on the enforcement issues with Griffin Pipe and determining whether or not fines will be imposed. They have taken over the files and are conducting the research. We do not know the timeline on when we will know the results.

REFERRAL TO THE ATTORNEY GENERAL – AFFORDABLE HOUSING NETWORK

Kelli Book, DNR attorney presented the following information:

Tom Wuehr, DNR Environmental specialist with the field office is also here today.

I would like to request referral of Affordable Housing Network to the Attorney General's Office for numerous asbestos violations in connection with a renovation project at the Hawthorne Hills Apartment Complex located in Cedar Rapids. Hawthorne Hills is a 202 unit subsidized family apartment complex.

ASBESTOS

Inhalation of asbestos fibers can cause lung disease, asbestosis and cancer.. There is no known safe level of exposure to asbestos and because of that federal regulations are in place to regulate the removal and disposal of asbestos during renovation and demolitions of commercial buildings.

ASBESTOS REGULATIONS

DNR adopted the federal asbestos regulations and the asbestos regulations can be broken down into three main categories: 1) inspections and notifications 2) proper removal and 3) proper disposal. Each of the three categories is an integral part in ensuring that asbestos is being properly removed and disposed of.

THE INSPECTION

In September 2010, DNR received a complaint about improper asbestos removal at the Hawthorne Hills Apartment Complex. Mr. Wuehr visited the apartment complex and spoke with Dave O'Clair. Mr. O'Clair explained that the complex had been undergoing a renovation for about a year and the renovation included the removal of floor tile and linoleum flooring. Mr. O'Clair told Mr. Wuehr that 152 apartments had been renovated, with several other apartments

currently in various stages of renovation. Mr. O'Clair told Mr. Wuehr that the floor tile and the linoleum was the same throughout the complex. He stated that no asbestos inspection had taken place prior to the start of the renovation and that no asbestos notification had been submitted prior to the start of the project. Based on the information provided by Mr. O'Clair it is estimated that 60,000 square feet of floor tile and 2,000 square feet had been removed as part of the project.

During the inspection, Mr. Wuehr observed dry broken floor tile in friable form scattered throughout the complex – in the hallways, the apartments, the parking lot, the sidewalks, and in the dumpster. He also observed broken friable linoleum in various apartments. Some of the pictures that Mr. Wuehr took are shown on pages 5 – 8 of your litigation report. Mr. Wuehr collected five samples of the suspect materials discovered throughout the complex.

All five samples came back with regulated amounts of asbestos containing material (above 1% is regulated). Sample 1 from the bathroom in an apartment contained 13% Chrysotile asbestos and the gray backing on the linoleum contained 40% Chrysotile asbestos (this can be seen on the photo on page 5 and the first photo on page 6). Sample 2 was dry plaster from the bathroom in an apartment and it contained 1.5% Chrysotile asbestos. Samples 3 and 4 came from the floor tile debris around the dumpster (this area can be seen in the photos on pages 6 and 7). The samples contained between 5%-10% Chrysotile asbestos. Sample 5 is from the floor tile debris in an apartment and it contained 15% Chrysotile asbestos.

Following the inspection, a Notice of Violation was issued to Affordable Housing for the numerous asbestos violations discovered during Mr. Wuehr's inspection. Affordable Housing Network responded to the Notice of Violation letter. The response letter included landfill receipts, which indicated none of the debris was disposed of asbestos containing material. It is also noted that during an Iowa OSHA investigation an employee who had been working on the project indicated that circular saws were being used to cut up the floor tiles.

TYING IT ALL TOGETHER

Prior to beginning the renovation project, Affordable Housing Network failed to conduct an asbestos inspection and failed to notify the DNR of the renovation project. These violations prevented the DNR from being able to evaluate and possibly inspect the project prior to its start. Over the course of the next year, the renovation went on and asbestos containing material in the form of floor tiles and linoleum was removed without being properly wetted or sealed. This not only endangered the workers who worked in the complex over the course of the year, but the workers at the landfill who unknowingly accepted asbestos containing material as regular construction waste. Also at the time of Mr. Wuehr's inspection, the building was inhabited, thus possibly exposing the tenants to the asbestos containing material that was found throughout the apartment complex. It is difficult if not impossible to measure the level of possible exposure, but what is certain is that Affordable Housing Network failed on many levels to comply with the asbestos regulations. Affordable Housing Network failed to inspect the apartment complex for asbestos prior to renovation activities; Affordable Housing Network failed to notify the DNR of the renovation; Affordable Housing Network failed to remove all asbestos containing material prior to renovation; Affordable Housing Network failed to keep all asbestos containing material adequately wet; Affordable Housing Network failed to have a trained supervisor on site during

the renovation activities; and Affordable Housing Network failed to seal the material in leak tight containers. The violations warrant referral to the Attorney General's Office and the DNR asks that the Commission vote to refer Affordable Housing Network to the Attorney General's Office for further enforcement.

Lorna Puntillo said that since they've received a \$6 million grant for renovations it seems that they should know the requirements on how to handle and dispose of asbestos.

Paul Johnson asked if EPA has ever moved on educational components for asbestos.

Tom Wuehr said that the Department staff has spent numerous hours with Affordable Housing trying to educate and help them handle asbestos. I find it hard to believe that they wouldn't know about the requirements.

Motion was made by David Petty to refer to Attorney General. Seconded by Lorna Puntillo. Motion carried unanimously.

REFERRED

NEXT MEETING DATES

April 19, 2011

May 17, 2011 – Johnson County

ADJOURNMENT

With no further business to come before the Environmental Protection Commission, Vice Chairperson adjourned the meeting at 2:00 p.m., Tuesday, March 15, 2011.

Roger L. Lande, Director

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